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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,007	03/26/2001	John Gardner	1498-125	1309
23117	7590	10/09/2007	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			LE, QUE TAN	
ART UNIT		PAPER NUMBER		
2878				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/806,007	GARDNER, JOHN
	Examiner Que T. Le	Art Unit 2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) Claim(s) 1-4 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 5-7 is/are objected to.
- 8) Claim(s) 8 and 9 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 March 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

This is in response to Applicant's response filed August 17, 2007.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, drawn to a photomultiplier tube circuit including a plurality of dynodes, an oscillator and a charging circuitry for providing charge to the dynodes.

Group II, claim(s) 8 and 9, drawn to a method of controlling the charging of a photomultiplier tube with a plurality of dynodes using a charging means having a specific charging cycle.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The charging circuitry of the photomultiplier tube of the invention group I can be used with/without any charging cycle other than the specific cycle of the method invention group II while the process/method of the invention group II can be practiced with another materially different product/circuit without the need of an oscillator of the invention group I.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant's election with traverse of Group I, claims 1-7, in the reply filed on August 17, 2007 is acknowledged. The traversal is on the ground(s) that the examiner does not appear to have followed the requirements of the MPEP Section 1893.03(d) which requires that the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e.. why there is no single general inventive concept) specially describing the unique special technical feature in each group. This is not found persuasive because the examiner has followed the requirements of the above mentioned section of MPEP. Applicant's attention is directed to the previous Office Action in which examiner have (1) listed all of the different groups of claims (i.e. Group I, claims 1-7; Group II, claims 8 and 9); and (2) explained such as "(T)he inventions listed ... group I" (page 2 of the Office action).

With respect to applicant's arguments regarding the "similar combination of features" between the different groups of inventions, it is noted that the "similar combination of features" would not prevent the groups of inventions from different from each other. With respect to applicant's arguments regarding "(H)ow the Examiner

concludes that the apparatus ... is not seen", applicant should read the Office action because the reasons of why the invention groups do not relate to a single general inventive concept under PCT Rule 13.1 have been detailed addressed by the examiner in accordance with the requirements of MPEP Section 1893.03(d). With respect to applicant's comment regarding "no Office Action on the merits has as yet been received", it is noted that the U.S. Patent Office has followed all standard of law and guide-lines set forth by the MPEP, examiner regret in the event of any unexpected circumstance may have caused during the effort of examining the application. The signed and dated PTO Form 1449 will be sent after the examiner have considered the cited documents. Applicant has NOT responded to any objection and/or rejection set out in the Office action because No objection and/or rejection had set in any of the previous Office actions.

The requirement is still deemed proper and is therefore made FINAL.

The disclosure is objected to because of the following informalities:

In the specification:

The terms "Fig. 1" and "fig. 1" in the present specification, page 5, line 18 and line 19, should be changed to "The figure" and "the figure", respectively.

In the drawing:

The label of "Fig. 1" on the drawing should be changed to "Figure".

Appropriate correction is required.

Claims 5-7 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-7 have not been further treated on the merits.

This application is in condition for allowance except for the presence of claims 8 and 9 directed to an invention non-elected with traverse in the reply filed on August 17, 2007. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Claims 1-4 are allowable over the prior art of record because the prior art fails to teach a photomultiplier tube circuit comprising a photomultiplier tube with a plurality of dynodes; charging circuitry for providing charge to the dynodes; an oscillator for providing a high voltage supply to the charging circuitry; means for sampling the voltage of at least one of the dynodes; and switching means for switching the oscillator on and off with respect to the sampled voltage.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I) Bochenski et al 7,030,355 disclose a photomultiplier tube circuit having a controlled power supply.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Que T. Le whose telephone number is (571) 272-2438.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Epps Georgia, can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Que T. Le  
Primary Examiner  
Art Unit 2878